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Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 93-289 ✓

In the Matter of

Palmetto Communications
Company

Licensee of Station WDIX(AM)
Yadkinville, North Carolina

Order to Show Cause Why the
License for Station WDIX(AM)
Yadkinville, North Carolina,
Should Not be Revoked

**ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER**

Adopted: November 2, 1993; Released: November 17, 1993

By the Chief, Audio Services Division:

1. The Chief, Audio Service Division, Mass Media Bureau, has before him for consideration: (a) the license held by Palmetto Communications Company ("Palmetto") for Station WDIX(AM), Yadkinville, North Carolina, and (b) the results of an investigation into WDIX(AM)'s silent status.¹

2. The Commission's records indicate that WDIX(AM) has been off the air since June 13, 1991.² The licensee's last request for authority to remain silent was granted through April 29, 1993 by letter, dated January 29, 1993, from the Chief, AM Branch, Audio Services Division, Mass Media Bureau. In that letter, Palmetto was advised that any future

requests for authority to remain silent must be accompanied by a detailed summary of the steps being taken to return WDIX(AM) to on-air operations. No response to that letter has been received. Consequently, WDIX(AM) is off the air without authority. This fact, coupled with the fact that WDIX(AM) has been off the air for over two years supports our determination that Palmetto is in apparent violation of Section 73.1740(a)(4) of the Commission's Rules.³ Because of the protracted period of time in which the station has been silent, and because Palmetto apparently lacks the ability and/or intent to restore WDIX(AM) to broadcast status, Palmetto is also in apparent violation of Section 73.1750 of the Commission's Rules.⁴

3. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Palmetto Communications Company is DIRECTED TO SHOW CAUSE why the license for Station WDIX(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

(a) To determine whether Palmetto Communications Company has the capability and intent to expeditiously resume broadcast operations of WDIX(AM) consistent with the Commission's Rules.

(b) To determine whether Palmetto Communications Company has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Palmetto Communications Company is qualified to be and remain the licensee of Station WDIX(AM).

4. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

5. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that he will appear at the hearing and present evidence on the

¹ The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See *Debrine Communications, Inc.*, 7 FCC Rcd 2118 (1992).

² WDIX(AM)'s license expires on December 1, 1995. (File No. BR-880729VA, granted November 10, 1988.)

³ Section 73.1740(a)(4) provides:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In

the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴ Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving his right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

6. IT IS FURTHER ORDERED, That, if it is determined that the hearing record does not warrant an Order revoking the license for WDIX, Yadkinville, North Carolina, it shall be determined, pursuant to Section 503(b) of the Communications Act of 1934, as amended, whether an ORDER OF FORFEITURE shall be issued against the licensee in an amount not exceeding \$250,000.00 for the willful and/or repeated violation of Section 73.1740 and/or 73.1750 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That this document constitutes a NOTICE OF APPARENT LIABILITY for willful and repeated violation of Section 73.1740 and/or 73.1750 of the Commission's Rules. The Commission has determined that in every case designated for hearing involving the potential revocation of a station license, it shall, as a matter of course, include a forfeiture notice so as to maintain the fullest possible flexibility of action. Since the practice of including such forfeiture notice is a routine procedure, such inclusion here should not be viewed in any manner as suggesting or otherwise indicating what the initial or final disposition of this proceeding should be.

FEDERAL COMMUNICATIONS COMMISSION

Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau

⁵ The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See *Radio Northwest Broadcasting Company*, 4 FCC Rcd 596, n.3 (1989).